REMARKS

Applicants have amended claims 1, 5, 6, and 11 and canceled claims 10 and 12. Claims 1-9, 11, and 13-21 are pending. Reconsideration of the application, as amended is requested.

CLAIM REJECTIONS

Claims 1, 7-10 were rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over, Gillingham et al. (U.S. Patent No. 5,792,247). Applicants disagree.

Claim 1 has been amended to recite an air moving device that is in fluid communication with the filter assembly which includes a housing, a filter, and a sound suppression element. Claim 1 has also been amended to recite the sound suppression element constructed and arranged to provide sound attenuation of at least 6 dB at one meter for sound frequencies between 160 to 11,000 hertz passing through the filter assembly.

Gillingham et al. does not disclose or suggest the above claimed filter assembly, in combination with such an air moving device. Nor does Gillingham et al. disclose or suggest a sound suppression element constructed and arranged to provide sound attenuation of at least 6 dB at one meter for sound frequencies between 160 to 1100 hertz.

Gillingham et al. is directed to an integrated resonator filter apparatus; that is, Gillingham et al. teaches sound attenuation in combination with particulate filtering. In contrast, claim 1 of the present invention is directed at a filtration system that moves air, filters air and attenuates sound. The sound attenuation disclosed in Gillingham et al. is described in paragraph 4, column 7, and shown in FIG. 22. Gillingham et al. states the known general principles that by tuning the resonator structures, i.e., varying the volumes, lengths, diameters, and relative positions, the overall noise can be reduced. Gillingham et al. discloses sound attenuation of over 6 dB between 80-110 hertz and 148-248 hertz. See FIG. 22. In contrast, claim 1 recites sound attenuation over 6 dB between 160 to 11,000 hertz. Therefore, in accordance with MPEP 2131.03 (Anticipation of Ranges) and MPEP 2144.05 (Obviousness of Ranges), claim 1 is neither anticipated by, nor obvious in view of, Gillingham et al. Claims 7-10 depend from and further define the invention of claim 1. At least for the reasons claim 1 is patentable, claims 7-10 are likewise patentable. Claims 7-10 include further recitations that made them allowable.

Withdrawal of this rejection is requested.

Claims 1-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gillingham et al. (U.S. Patent No. 5,792,247) in combination with Dallas et al. (U.S. Patent No. 6,432,177) and Ramos et al. (U.S. Patent No. 6,179,890). Applicants disagree.

As discussed above, claim 1 has been amended to recite a filter assembly including a sound suppression element capable of sound attenuation of at least 6 dB at one meter for frequencies between 160 to 1100 hertz. Gillingham et al. has been discussed above as teaching an integrated resonator filter apparatus with particulate filtration for an internal combustion engine.

The Examiner attempts to turn to Dallas et al. and Ramos et al. for the teachings lacking in Gillingham et al., that of sound attenuation of 6 dB in the claim frequency ranged. These secondary references, however, do not include the lacking teachings: Dallas et al. does not disclose any sound attenuation, and Ramos et al. does not disclose an apparatus that can attenuate sound by 6 dB. Applicants contend that the teachings of Gillingham et al., either alone or in any combination with Dallas et al. and Ramos et al., do not suggest and would not lead one skilled in the art to the filter assembly as recited in claim 1, and claims 2-9 depending therefrom.

Claim 11 has also been amended to recite a sound suppression element capable of sound attenuation of at least 6 dB at one meter for frequencies between 160 to 1100 hertz. Additionally, claim 11 is directed to a system for producing power that includes a fuel cell and a filter assembly. Not only is Gillingham et al. lacking in the specified sound attenuation recited, Gillingham et al. is also lacking a teaching or suggestion that a filter assembly, that includes sound attenuation, would be provided on a fuel cell system.

The Examiner attempts to turn to Dallas et al. and Ramos et al. for the teachings lacking in Gillingham et al., that of sound attenuation of 6 dB in the claim frequency ranged and of a fuel cell system having the recited filter assembly and sound suppression element. These secondary references, however, do not include the lacking teachings: Dallas et al. does not disclose any sound attenuation, and provides no indication that sound suppression or attenuation would be needed with a fuel cell, and Ramos et al. does not disclose an apparatus that can attenuate sound by 6 dB. Applicants contend that the teachings of Gillingham et al., either alone or in any

combination with Dallas et al. and Ramos et al., do not suggest and would not lead one skilled in the art to the filter assembly as recited in claim 11, and claims 13-21 depending therefrom.

Consequently, amended claims 1 and 11 are not obvious in view of Gillingham et al. and in further view of Dallas and Ramos et al. Claims 2-9 and 12-21 depend from, and further limit, claims 1 and 11, respectively. Claims 2-9 and 12-21 are not obvious in view of Gillingham et al., Dallas et al., and Ramos et al. at least for the same reasons. Claims 2-9 and 12-21 include further recitations that made them allowable over the cited art.

Withdrawal of the rejection is requested.

SUMMARY

In consideration of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Applicants bring to the Examiner's attention two continuation-in-part applications claiming priority to this application: application no. 09/87,441 with examiner Donald V. Scaltrito of art unit 1746, and, 10/122,647 with Jason M Greene of art unit 1724.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

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Mara E. Liepa
Reg. No. 40,066